

A NONSUBSTANTIVE REVISION
OF STATUTES RELATING TO
SOLVENCY OF INSURERS, PROPERTY AND CASUALTY
INSURANCE, OTHER TYPES OF INSURANCE COVERAGE,
AND UTILIZATION REVIEW AND INDEPENDENT REVIEW

Submitted to the 79th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas

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FOREWORD

The Texas Legislative Council is required by law (Section 323.007, Government Code) to carry out a complete nonsubstantive revision of the Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order, employing a numbering system and format that will accommodate future expansion of the law, eliminating repealed, invalid, duplicative, and other ineffective provisions, and improving the draftsmanship of the law if practicable--all toward promoting the stated purpose of making the statutes "more accessible, understandable, and usable" without altering the sense, meaning, or effect of the law.

Under the new classification scheme adopted by the council, the statutes will eventually consist of 27 codes. To date, the council has produced and the legislature has enacted the Agriculture Code, Alcoholic Beverage Code, Business & Commerce Code, Civil Practice and Remedies Code, Education Code, Election Code (which was a substantive revision), Finance Code, Government Code, Health and Safety Code, Human Resources Code, Labor Code, Local Government Code, Natural Resources Code, Occupations Code, Parks and Wildlife Code, Property Code, Special District Local Laws Code, Tax Code (Title 1 of which was a substantive revision), Transportation Code, Utilities Code, and Water Code. The council staff also assisted the state bar in the Business Organizations Code, Penal Code, and Family Code projects, which were substantive revisions, and revised miscellaneous criminal procedure provisions as Title 2 of the Code of Criminal Procedure.

Titles 4, 10, 12, and 14, Insurance Code, and additional related chapters represent a nonsubstantive revision of certain provisions of the existing Insurance Code applicable to insurers and related entities, including provisions relating to solvency of insurers, property and casualty insurance, including policy forms and ratemaking, other types of insurance coverage, and utilization review and independent review. These titles and chapters are derived from provisions of the Insurance Code of 1951 previously designated as part of Title 1, Insurance Code.

When the revision of the Insurance Code is complete, the code will be divided into titles, subtitles, chapters, subchapters, and sections. Sections will be numbered decimally, and the number to the left of the decimal point is the same as the chapter number. Note that gaps in chapter and section numbering are for future expansion. The material that has been incorporated in this nonsubstantive revision by the 79th Legislature is added to the Insurance Code of 1951 as Titles 4, 10, 12, and 14 and as additional chapters in previously enacted titles of the Insurance Code and in other codes. Material incorporated into the revision of the Insurance Code by the 78th Legislature is designated as Titles 3, 5, 9, 11, and 13 and Subtitles A-G and I, Title 8. Material incorporated into the revision of the Insurance Code by the 77th Legislature is designated as Titles 6 and 7 and Subtitle H, Title 8. Material incorporated into the revision of the Insurance Code by the 76th Legislature is designated as Title 2. Existing material in the Insurance Code that is not affected by any revision is contained in Title 1.

The revisor's report reflects Titles 4, 10, 12, and 14, Insurance Code, and additional related chapters as enacted by the passage of H.B. No. 2017, Acts of the 79th Legislature, Regular Session, 2005. The revisor's report states the Revised Law, which is the text of the new law, and then provides the Source Law, which is the text of the former law from which the revised law is derived. If further explanation of either the revised law or the source law is required, a Revisor's Note is included after the source law. All substance in the source law is revised in the revised law or the reason for its omission is explained in a revisor's note.

Note that, to provide all affected parties a complete legislative cycle to more closely review the revision, Titles 4, 10, 12, and 14, Insurance Code, and the additional related chapters will not take effect until April 1, 2007.

Because of the extensive reorganization of many statutes, and even sentences within a statute, it may be helpful to refer to the source law as printed in the Insurance Code as it existed before the revision (so that the quoted source law may be seen in its former context) and to the disposition table (showing where the former statutes appear, as revised, in the code). The disposition table is printed as Appendix C to the revisor's report.

The revision required conforming amendments to several statutes. These conforming amendments, which were also enacted into law by the passage of H.B. No. 2017, are printed in Appendix A to the revisor's report. Appendix A also includes a section listing the laws repealed effective April 1, 2007, and a section stating the legislature's intent that the code be a nonsubstantive revision.

In reviewing the revisor's report to Titles 4, 10, 12, and 14, Insurance Code, and the additional related chapters, the reader should keep in mind the following:

(1) Except as provided by Section 30.003, Insurance Code, as amended by H.B. No. 2017, the Code Construction Act (Chapter 311, Government Code) applies to the code. That act sets out certain principles of statutory construction applicable to new codes and also provides some definitions. The act is printed as Appendix B to the revisor's report.

(2) The proposed code is written in modern American English. Where possible, the present tense is used; the active rather than the passive voice is preferred; and the singular is used in preference to the plural.

(3) This is a nonsubstantive revision. The staff's authority does not include improving the substance of law. The sole purpose of this project was to compile all the relevant law, arrange it in a logical fashion, and rewrite it without altering its meaning or legal effect. If a particular source statute is ambiguous and the ambiguity cannot be resolved without a potential substantive effect, the ambiguity was preserved.

This project was under the direction of Kristi Ayala, Legislative Counsel, of the council staff. Questions may be directed to her at P.O. Box 12128, Capitol Station, Austin, Texas 78711, or at telephone number (512) 463-1155.